

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 24, 2004

IN RE:

**PETITION OF CHATTANOOGA GAS COMPANY
FOR APPROVAL OF ADJUSTMENT OF ITS
RATES AND CHARGES AND REVISED TARIFF**

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**DOCKET NO.
04-00034**

**ORDER GRANTING MOTION TO SEVER
OF THE CHATTANOOGA MANUFACTURING ASSOCIATION**

This matter is before the Hearing Officer upon the *Motion to Sever* filed by the Chattanooga Manufacturing Association ("CMA"). CMA is seeking to sever from this action a request by the Gas Technology Institute ("GTI") to collect from all customers of Chattanooga Gas Company ("Chattanooga" or the "Company") a surcharge for "research and development." GTI filed its request to be considered by the Tennessee Regulatory Authority ("TRA" or "Authority") as a part of Chattanooga's rate case. This Order reflects an earlier determination by the Hearing Officer severing GTI's request for relief from this docket.

CMA's Motion to Sever

At a Status Conference held in this docket on April 19, 2004, GTI's petition for intervention was granted without objection from any of the parties. Nevertheless, during the Status Conference, questions were raised by the Hearing Officer and the parties regarding the actual relief being sought by GTI in this docket. Those questions generated a discussion as to whether GTI's request should be considered in a separate docket or a bifurcated proceeding. To assist in the determination of this issue, counsel for GTI was directed to file a letter detailing the

current amount of the charge for research and development being assessed by gas companies and whether GTI is seeking an assessment as a part of a basic rate increase or a part of a purchase gas adjustment (“PGA”) charge. In addition, the parties agreed during the Status Conference that the issue of the manner in which GTI’s request should be considered could be addressed through a motion to sever that request from this proceeding.

GTI filed its letter on April 22, 2004 and stated that the current rate of the Federal Energy Regulation Commission (“FERC”) surcharge is 0.56 cents per Dth.¹ GTI explained that in 1998 the FERC surcharge rate was 1.74 cents per Dth, but that the rate decreased through the years as FERC decided to transfer to state jurisdictions the authority for funding research and development. The current rate of 0.56 cents per Dth became effective January 1, 2003 and will end December 31, 2004, after which there will no longer be a FERC surcharge for research and development. In its letter of April 22, 2004, GTI stated that its request seeks to re-establish the 1998 FERC surcharge rate and to collect those charges from Chattanooga’s customers through the Company’s PGA or a similar mechanism.

CMA filed a *Motion to Sever* (“Motion”) GTI’s request on April 23, 2004. In that Motion, CMA recounted the history of the FERC-ordered surcharge which was originated in 1977. In 1998, FERC determined that the surcharge would be gradually decreased to the point of being phased out at the end of 2004. CMA argues that the issue of imposing a surcharge for research and development should not be considered as part of this proceeding because customers of Chattanooga could be required to pay a disproportionate amount of the surcharge at a rate of 1.7 cents while customers of other regulated gas utilities would be paying a rate of 0.56 cents or potentially no surcharge at all. CMA suggests that a rulemaking proceeding would be the

¹ A Dth or Dekatherm is a thermal unit of energy equal to 1,000,000 Btus, that is, the equivalent of 1,000 cubic feet of gas having a heating context of 1,000 Btus per cubic foot. Btu or British Thermal Unit refers to the energy required to raise the temperature of one pound of water by one degree Fahrenheit, under standard pressure. See, *Natural Gas Industry Glossary of Terms* (American Public Gas Association)

appropriate mechanism for the TRA to use in establishing a uniform rate and collection procedure for all regulated carriers. According to CMA, "...only in that manner, can the TRA achieve a result that is fair to all regulated carriers and customers."²

On April 30, 2004, Chattanooga filed a letter supporting CMA's Motion. In its letter, Chattanooga stated, "Severing this issue and addressing it in a rulemaking or generic docket would facilitate the full participation of other regulated gas utilities that have no interest in the rate proceeding of [Chattanooga]."³ In addition, Chattanooga asserted that such a docket would ensure a uniform surcharge for all regulated gas utility customers and eliminate the potential that Chattanooga's customers might pay more than their fair share of the fee.

GTI filed its *Response of Gas Technology Institute to Chattanooga Manufacturers Association's Motion to Sever* ("Response") on April 30, 2004. In its *Response*, GTI asserts that "[t]he issue of a surcharge for research and development, whether through base rates or the PGA, bears a significant relationship to the determination of appropriate customer rates."⁴ While GTI asks that the Authority proceed with consideration of its request in this docket, GTI supports, in the alternative, the convening of a generic docket in the event that its request is severed from this docket. GTI does not dispute that the TRA could institute rulemaking proceedings; however, GTI proposes that a generic docket is a more appropriate and more efficient way to address the issue of research and development surcharges in Tennessee.

By commencing a generic proceeding, the Authority can bring the issue to finality. Given the importance of the issue of funding research and development activities for the benefit of end user natural gas consumers, the use of a generic proceeding is decidedly preferable to rule-making.⁵

² *Motion to Sever*, p. 2 (April 23, 2004)

³ *Response of Chattanooga Gas Company to Motion to Sever Filed by Chattanooga Manufacturers' Association*, p. 1 (April 30, 2004)

⁴ *Response of Gas Technology Institute to Chattanooga Manufacturers Association's Motion to Sever*, p. 1 (April 30, 2004)

⁵ *Id.*, p. 2

Discussion

According to the testimony of Ronald B. Edelstein, Director of State Regulatory Programs for GTI, the organization formally known as GRI was formed in 1977 by natural gas local distribution companies and pipeline companies in agreement with the FERC. The initial research efforts of GTI were focused primarily in the area of increasing the supply and lowering the cost of acquiring natural gas. In the 1980s and 1990s, GTI devoted nearly half of its budget to end-use research and development, focusing on increased-efficiency heating equipment and the development of efficiency technologies through combining power generation and uses for waste heat.⁶ According to Mr. Edelstein, although the FERC determined to discontinue the surcharge by the end of 2004, an initiative has begun with the FERC to establish a second national program for funding GTI's activities.⁷

On May 5, 2004, GTI responded to discovery requests propounded by Chattanooga and the Consumer Advocate and Protection Division of the Office of the Attorney General. In its responses, GTI proposes several requirements which the TRA might adopt as to the billing, collection, audit and reporting functions relating to GTI's requested surcharge.⁸ The testimony of Ronald B. Edelstein and GTI's responses to discovery, together with GTI's acknowledgement that its request could best be addressed in a separate docket, lead the Hearing Officer to the conclusion that the *Motion to Sever* should be granted.

From the information provided by GTI in this docket, GTI's request requires a separate proceeding with greater participation from the industry and perhaps consumers than will be afforded in this docket. Moreover, the details of GTI's plan for funding, research and oversight

⁶ See Testimony of Ronald B. Edelstein, p. 4-5 (April 16, 2004)

⁷ *Id.*, p. 28-29

⁸ Gas Technology Institute Response to Chattanooga Gas Company's Data Request No. 6, TRA Docket No. 04-00034 (May 5, 2004); Gas Technology Institute Response to Consumer Advocate and Protection Division's Discovery Request Nos. 1, 6, and 11, TRA Docket No. 04-00034 (May 5, 2004)

should be fully explored in a docket that will allow for attention to such particular details. A rate hearing involving only one gas utility is not the appropriate setting for considering GTI's assessment request. In addition, GTI has not articulated a basis for the TRA's authority to implement a surcharge on some gas utilities operating in the State of Tennessee while other non-regulated utilities may not be subjected to similar surcharge.

IT IS THEREFORE ORDERED THAT:

1. The Chattanooga Manufacturing Association's *Motion to Sever* the request of the Gas Technology Institute is granted.

2. Gas Technology Institute's request may be considered by the Authority in a separate docket opened as either a rulemaking proceeding or a generic proceeding for the purpose of determining whether the TRA has the authority to establish a surcharge for research and development and, if so, the manner in which to proceed to establish a uniform rate and a uniform collection and distribution procedure for utilities operating in Tennessee.


J. Richard Collier, Hearing Officer